

DOW, LOHNES & ALBERTSON, PLLC  
ATTORNEYS AT LAWSCOTT S. PATRICK  
DIRECT DIAL 202-776-2885  
spatrick@dlalaw.comWASHINGTON, D.C.  
1200 NEW HAMPSHIRE AVENUE, N.W. • SUITE 800 • WASHINGTON, D.C. 20036-6802  
TELEPHONE 202-776-2000 • FACSIMILE 202-776-2222ONE RAVINIA DRIVE • SUITE 1600  
ATLANTA, GEORGIA 30346-2108  
TELEPHONE 770-901-8800  
FACSIMILE 770-901-8874

March 16, 2001

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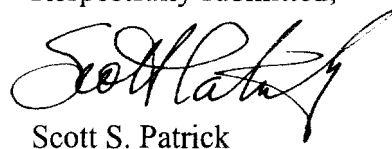
FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARYVIA COURIERMagalie Roman Salas, Esquire  
Secretary  
Federal Communications Commission  
445 Twelfth Street, S.W.  
Washington, D.C. 20554Attention: Chief, Allocations Branch  
Policy and Rules Division  
Mass Media BureauRe: KLTV-DT, Tyler, Texas  
Facility ID No. 68540  
Supplement to Petition to Amend the DTV Table of Allotments

Dear Ms. Salas:

On behalf of Civic License Holding Company, Inc., permittee of KLTV-DT, Tyler, Texas, and at the request of the Commission's Staff, there are transmitted herewith an original and five copies of a supplement to its *Petition for Rule Making*, submitted May 1, 2000, proposing a substitution of Channel 10 for Channel 38 as the station's paired DTV allocation. The supplement addresses the impact of the proposed channel change on potential Class A stations.

If any additional information is needed in connection with this matter, please contact me.

Respectfully submitted,

  
Scott S. Patrick

Enclosure

cc(w/): Mr. H. John Morgan (FCC; Courier Delivered Stamp-and-Return copy)  
Ms. Nazifa Naim (FCC; Courier Delivered Stamp-and-Return copy)014  
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**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

**MAR 16 2001**

**FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY**

In the Matter of )  
 )  
Amendment of Section 73.622(b) ) MM Docket No. \_\_\_\_\_  
Table of Allotments, ) RM- \_\_\_\_\_  
Digital Television Broadcast Stations )  
(Tyler, Texas) )  
 )

To: Chief, Allocations Branch  
Policy and Rules Division  
Mass Media Bureau

**SUPPLEMENT TO CIVIC LICENSE HOLDING COMPANY, INC.'S  
PETITION FOR RULE MAKING  
TO AMEND THE DTV TABLE OF ALLOTMENTS**

Civic License Holding Company, Inc. ("Civic"), permittee of KLTV-DT, Tyler, Texas, by its attorneys and pursuant to the request of the Commission's Staff, hereby submits the attached Technical Statement regarding impact on Class A stations to supplement its Petition ("Petition") to institute a rulemaking to amend Section 73.622(b), the DTV Table of Allotments, by substituting Channel 10 as the station's paired DTV allocation for the transition period in lieu of Channel 38, as originally allotted. The proposed channel change is predicted to displace one potential Class A station, but because Civic timely filed its maximization notifications and applications and seeks to resolve technical problems, Civic submits that the Commission is required by statute to grant the reallocation. Accordingly, the Commission promptly should proceed with a rulemaking to change KLTV-DT's channel.

As demonstrated in the attached Technical Statement, a change in KLTV-DT's allotment is predicted to displace low power and purportedly Class A-eligible station KLGW-LP, which

serves Longview, Texas on Channel 10.<sup>1</sup> This, however, does not preclude the Commission from granting the proposed KLTV-DT channel change in these circumstances. Civic understands that the Commission “may question modification requests that unnecessarily impinge on Class A service,”<sup>2</sup> but Congress prohibits the Commission from granting a Class A application to a low power station that would interfere with a full power station “seeking to maximize power under the Commission’s rules, if such station has complied with the notification requirements.”<sup>3</sup> Civic complied with the notification requirements and timely submitted a Petition for Rulemaking and maximization application for the new DTV channel on May 1, 2000.<sup>4</sup> In addition to the other public interest benefits identified in the Petition, operations on the new DTV channel would permit effective service maximization for KLTV-DT. Accordingly, the proposed channel change and maximization is protected by the relevant Congressional statutes.

More importantly, even if Civic had not submitted its petition for rule making by May 1, 2000, the Commission still would be bound to protect KLTV-DT’s proposed channel change against KLGW-LP’s prospective Class A operations. So long as full power stations satisfied notification requirements, Congress intended to preserve the ability of those stations to maximize and expressly directed the Commission to permit stations to change DTV channels if necessary:

If, after granting certification of eligibility for a class A license, ***technical problems*** arise requiring an engineering solution to a full-power station’s allotted parameters or ***channel assignment*** in the

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<sup>1</sup> The Commission listed station KLGW-LP as filing a Certification of Class A Eligibility in Certificates of Eligibility for Class A Television Station Status, *Public Notice*, DA 00-1224 (rel. June 2, 2000).

<sup>2</sup> Establishment of a Class A Television Service, *Report and Order*, MM Docket No. 00-10, 15 FCC Rcd 6355 at ¶64 (2000) (“*Class A Order*”).

<sup>3</sup> 47 U.S.C. § 336(f)(7)(A)(ii)(IV).

<sup>4</sup> The notifications Petition for Rule Making, and applications were submitted together with requests for any waiver that the Commission might deem necessary.

digital television Table of Allotments, the Commission shall make such modification as necessary – (i) to ensure replication . . . ; and (ii) to permit maximization.<sup>5</sup>

Congress and the Commission have not adopted a narrow definition of “technical problems.”

The Commission, for example, declined to require full-service stations requesting an adjustment to the DTV Table “on this basis to demonstrate that the adjustment can *only* be made in this fashion.”<sup>6</sup> Instead, the Commission concluded that Congress’ preference of maximization rights for full power stations did not warrant imposing additional obligations.<sup>7</sup>

As stated in the initial petition, Civic can resolve technical, tower structural loading problems by changing KLTU-DT’s allotment to one that permits sharing the analog antenna and transmission line. The existing antenna structure for KLTU(TV) was designed for one TV antenna and one transmission line. By substituting Channel 10 for KLTU-DT, Civic can continue using a single antenna and transmission line, but in this instance the equipment can combine the analog and digital signals, an arrangement not permitted if the station operates with the initially allotted channel. Without this channel change, Civic would be forced to use dual antennas and dual transmission lines to support analog and digital operation. Accordingly, by resolving this technical problem, Civic can continue using the existing structure and avoid constructing a second antenna tower, which would be rendered superfluous after the close of the DTV transition when stations resume operation on a single channel, or possibly reinforcing the existing one.

Tower issues are integral to the implementation of digital television. The Commission explicitly and fundamentally based the DTV Table of Allotments on co-located analog and

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<sup>5</sup> 47 U.S.C. § 336(f)(1)(D) (emphasis added).

<sup>6</sup> *Class A Order* at ¶64 (emphasis original).

digital facilities<sup>8</sup> and expressed the desire and belief that broadcasters could facilitate the DTV roll-out by using existing towers.<sup>9</sup> The issue of DTV towers is so critical that the Commission established a “DTV Tower Strike Force” specifically intended to resolve tower problems that may arise.<sup>10</sup> There is no question that problems relating to tower structural loading and construction are the type of “technical problems” that Congress directed the Commission to solve preferentially over prospective Class A service. Moreover, as also described in the Petition, Civic’s proposed DTV channel change would permit effective maximization on a VHF channel with improved signal coverage. Because the proposal would resolve these technical problems, the Commission accordingly is required to grant KLTN-DT’s channel change petition, notwithstanding any effect on prospective Class A stations.<sup>11</sup>

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<sup>7</sup> *Id.*

<sup>8</sup> Advanced Television Systems and Their Impact upon the Existing Television Broadcast Service, *Sixth Report and Order*, MM Docket No. 87-268, 12 FCC Rcd 14588, at ¶102 (1997).

<sup>9</sup> Advanced Television Systems and Their Impact upon the Existing Television Broadcast Service, *Fifth Report and Order*, MM Docket No. 87-268, 12 FCC Rcd 12809, at ¶91 (1997).

<sup>10</sup> The Commission said that the DTV Tower Strike Force would “aid local authorities and broadcasters by providing expedited answers to questions related to the process of assessing tower modification or construction and to facilitate the deliberations of reviewing entities” and thereby facilitate the transition to DTV. “*Commission Creates DTV Tower Strike Force to Target Potential Problems in Implementing Digital Television*,” FCC News Report No. MM 98-6 (May 29, 1998).

<sup>11</sup> Although KLTN-DT’s channel change request should be granted regardless of any potential Class A impact, it is not clear that KLGW-LP otherwise qualifies for Class A status. Section 73.6001 of the Commission’s Rules (47 C.F.R. § 73.6001) requires that Class A stations must have aired an average of at least three hours per week of “locally produced” programming (as defined in 47 C.F.R. § 73.6000) in the 90 days preceding enactment of the Community Broadcasters Protection Act of 1999 and continue to broadcast such locally produced programming. Employees at KLTN(TV) extensively reviewed the programming aired by KLGW-LP and determined that the station’s over-the-air programming between January 30-February 6, 2001 corresponded exactly with the nationally broadcast programming of its affiliated network, Trinity Broadcasting Network. Periodic reviews of KLGW-LP programming both before and since confirm that the low power station routinely airs nationally-produced

THEREFORE, for the reasons previously set forth in the Petition for Rule Making and provided herein, Civic respectfully reiterates its request that the Commission initiate a rule making proceeding promptly to amend Section 73.622(b) of its Rules to substitute Channel 10 for Channel 38 for use by KLTU-DT at the allotted reference point in Tyler, Texas. Without this channel change, two antennas and two transmission lines would be required to support dual analog and digital operation. The proposal would resolve technical problems of tower structural loading and permit effective maximization. Because Civic timely filed its maximization notifications and applications and seeks to resolve this technical problem, the Commission is required to protect KLTU-DT's channel change request against the claimed Class A eligibility of KLGW-LP, as Congress explicitly directed. Due to the impending DTV construction deadline and the efficiencies associated with concurrent construction, Civic respectfully urges the Commission to initiate this proceeding as soon as possible.

Respectfully Submitted,  
CIVIC LICENSE HOLDING COMPANY, INC.

By:

  
John S. Logan  
Scott S. Patrick

Its Attorneys

Dow, Lohnes & Albertson, PLLC  
1200 New Hampshire Avenue, N.W.  
Suite 800  
Washington, D.C. 20036-6802  
202-776-2000

Dated: March 16, 2001

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network programming. Without KLGW-LP airing locally produced programming, it is not obvious that the station even qualifies for Class A status.

**ATTACHMENT**

**Technical Statement**

TECHNICAL SUPPLEMENT  
CLASS A INTERFERENCE ANALYSIS  
TO SUPPORT THE  
PETITION FOR RULE MAKING TO  
MODIFY THE DTV ALLOTMENT TABLE  
STATION KLTU-DT  
TYLER, TEXAS

Technical Statement

This Technical Supplement was prepared on behalf of KLTU-DT in support of the pending *Petition for Rule Making* to modify the DTV allotment of KLTU-DT from channel 38 to channel 10.

The proposed DTV facility is for the following parameters:

State & City	DTV Channel	DTV ERP (kW)	Antenna Radiation Center	Antenna HAAT (m)
TX, Tyler	10	7 kW	423 m AMSL	302 m
Note: Non-Directional Antenna				
Reference Coordinates: 32° 32' 23 N. Latitude/95° 13' 12" W. Longitude				

An FCC staff member has requested this analysis of the impact to Class A television stations from the proposed DTV Channel 10 allotment at Tyler, Texas. Therefore, this supplement was prepared and submitted.

As discussed below, the proposed Tyler DTV 10 facility is predicted to cause interference to one existing Low Power Television (LPTV) station with an FCC accepted Class A eligibility certification, KLGW-LP assigned to Longview, Texas.



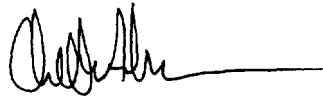
For the analysis, all the authorized and licensed LPTV stations within 500 kilometers on Channel 10 (co-channel) and 300 kilometers on the adjacent channels were tabulated.<sup>1</sup> This tabulation is provided below. Each station was then analyzed to determine if a Class A eligibility certification was accepted Commission. If the station did file a Class A eligibility certification, an OET 69 analysis was completed to determine if any adverse interference is predicted.

Licensed and Authorized LPTV Stations within proposed Channel 10 Tyler DTV 300 kilometers for adjacent channels (channels 9,11) 500 kilometers for co-channel (channel 10)						
Call Sign	Status	Channel	City of License	State of License	Effective Radiated Power (kW)	Distance (km)
KLGV-L	LIC	10	Longview	TX	0.124	41
Station filed Statement of Class A Eligibility. Interference predicted pursuant to OET-69.						
KIBN-L	LIC	11	Lufkin	TX	0.113	142
Station filed Statement of Class A Eligibility. No interference predicted pursuant to OET-69.						
KPBI-L	CP.	10	Fort Smith	AR	3.0	332
Station filed Statement of Class A Eligibility. No Interference predicted pursuant to OET-69.						
WBMS-L	LIC	10	Jackson	MS	0.1	474
Station filed Statement of Class A Eligibility. No Interference predicted pursuant to OET-69.						

<sup>1</sup> The study radius of 500 kilometers for co-channel and 300 kilometers for adjacent-channel stations is a sufficient distance to study the necessary low powered television stations. The Commission's CDBS was employed searching only current records.

Conclusion

The proposed Tyler DTV Channel 10 will only cause predicted interference to one LPTV station which has filed a statement of Class A eligibility, KLGW-LP at Longview, Texas.



Charles Cooper

du Treil, Lundin & Rackley, Inc.  
201 Fletcher Avenue  
Sarasota, Florida 34237  
941.329.6000

January 16, 2001